



IOGCC Comments

On

EPA's Proposed

Cross-Media Electronic Reporting & Recordkeeping Rule (CROMERRR)

(Reference Docket Number: EC-2000-007)

(Proposed in Federal Register Volume 66, Number 170, Pages 46162-46195, August 31, 2001)

INTRODUCTION

The Interstate Oil and Gas Compact Commission (IOGCC), founded in 1935, represents the governors of 37 oil and gas producing states (30 members and 7 associates), and has 6 international affiliates. With a primary mission to promote conservation of domestic oil and gas while ensuring environmental protection, the IOGCC admires and supports the basic intent of the proposed rule to create national uniformity. However, at its Annual Meeting in December 2001, the IOGCC **unanimously** approved Resolution Number 01.126 which states:

- The IOGCC finds CROMERRR could require states to implement costly electronic reporting and recordkeeping requirements that discourage the use of electronic filing and recordkeeping, and
- the IOGCC requests that the Environmental Protection Agency (EPA) withdraw cooperation with the states and other stakeholders.

The IOGCC believes that once EPA allows states adequate input, time and resources toward achieving the goals of the rule, it will improve efficiency and accountability of all stakeholders working under the 40 CFR Regulations.

NATIONAL GOVERNORS' ASSOCIATION COMMENTS FROM JULY, 2000

The IOGCC recommends that the EPA re-visit comments addressed to Evi Huffer, Co-Chair of the CROMERRR rulemaking committee, by Jim Whitter, Policy Analyst for the National Governors' Association (NGA) Center for Best Practices, dated July 6, 2000. At the end of Mr. Whitters' comments he commends EPA for "the steps it has taken to include states in the CROMERRR and CDX efforts and your willingness to integrate state perspectives into them." Apparently the EPA did not consider the comments or concerns of Mr. Whitter to be legitimate because the matters he addressed in his letter are still being reiterated today. The IOGCC believes that it is imperative the CROMERRR rulemaking committee immediately begin coordinating closely with each state's regulatory and information technology (IT) officials. If the EPA fails to include these people in this process, the potential for this initiative to have any degree of success is extremely low. Additionally, EPA's urgency to meet the deadline for the Government Paperwork Elimination Act (GPEA) mandate could set the entire reporting and recordkeeping process back years and unnecessarily waste an untold amount of taxpayer

and industry dollars. Perhaps the GPEA mandate deadline of 2003 should be re-visited rather than prematurely imposing an ill-considered rule.

STATES AND OTHER STAKEHOLDERS MUST BE INVOLVED

States and other stakeholders must be given additional time and resources to adequately and accurately respond to concerns that CROMERRR presents. The IOGCC recommends that prior to implementation of the rule, all states should be allowed to investigate and mitigate the ramifications this rule will have on their various agencies and budgets. Large sums have been spent by many states which either recently updated and implemented, or are in the process of updating and implementing, new database systems. Because the EPA did not provide adequate advance notice, these new databases were updated to work under the current guidelines, not to be CROMERRR compliant.

The IOGCC recommends that the EPA provide time and resources for states to determine which databases within state agencies affected have the capacity to be modified to meet CROMERRR requirements, and which databases will be required to be converted to a new CROMERRR- compliant database. In addition, time and resources should be provided for states to perform their own cost/benefit analysis because the proposed rule will affect some states to a much higher degree.

REGIONAL EPA OFFICES MUST BE INVOLVED

The IOGCC has been in contact with individuals who work with different EPA regional offices. Their comments indicate that EPA personnel who deal with reporting and record-keeping were not aware of the CROMERRR proposal. The IOGCC is concerned that individuals who will be responsible for interpretation and implementation of the rule have had little or no opportunity to interact with or offer suggestions to the rulemaking committee.

CROMERRR IS 'TOTALLY VOLUNTARY'??

Based on language used by EPA within the summary of the proposed rule, individual states and other stakeholders would not be required to implement changes within their present reporting and record-keeping databases, because compliance is strictly voluntary. However, the IOGCC wonders if the EPA intentionally included the phrase "totally voluntary" to circumvent funding another federal mandate. From any direction one examines the proposed rule the result is the same---if implemented, states have no option but to spend whatever it costs to comply with CROMERRR if they wish to retain their EPA- approved programs. This will take more time and resources than the EPA is allowing the states.

THE EPA MUST PROVIDE MORE PUBLIC COMMENT TIME AND ANSWERS

The IOGCC recommends that the EPA, at a minimum, hold additional public comment meetings within each of the 10 EPA regions prior to ending the public comment period and enacting the rule. Many state representatives and other stakeholders have not had the

As it stands now, the EPA will decide in April 2002 whether to implement the rule in its current form, or amend it by implementing only the reporting requirement and re- proposing the recordkeeping portion under a separate rulemaking. Whichever direction the EPA takes, it appears that the reporting portion will become a rule. The EPA anticipates implementation of the reporting portion by December 2002. This would allow states only 8 months to become CROMERRR compliant with the reporting aspects. The IOGCC is concerned about who will be responsible for certifying that the electronic equipment is CROMERRR compliant and meets EPA requirements within that time frame, and who will enforce the rule.

The EPA must provide states and other stakeholders with answers which will accurately define terms and the intent of many sections, along with justifying contradictory statements within the proposed rule. In addition, many of the security measures are redundant and onerous and should be either removed or modified.

IOGCC RESOLUTION

As an integral part of these IOGCC comments, Resolution Number 01.126 is herein included.

RESOLUTION 01.126 On U.S. EPA's Establishment of Electronic Reporting

WHEREAS, the United States Environmental Protection Agency (EPA) has published a proposed rule in the Federal Register (66-FR-46162-46195) to establish electronic reporting and recordkeeping requirements, known as Cross-Media Electronic Reporting and Recordkeeping Rule (CROMERRR); and,

WHEREAS, CROMERRR could affect all 40 CFR programs including those EPA-approved state 1425 programs and EPA 1422 programs; and,

WHEREAS, CROMERRR could require such programs to modify the EPA-approved state programs if they are to accept electronic reports and allow electronic recordkeeping; and,

WHEREAS, CROMERRR could not "grandfather" existing programs; and,

WHEREAS, CROMERRR could require states to implement a variety of potentially expensive and onerous provisions; and,

WHEREAS, the Interstate Oil and Gas Compact Commission (IOGCC) recognizes the potential value of electronic recordkeeping, but is concerned about the potential costs to implement CROMERRR;

NOW, THEREFORE, BE IT RESOLVED that the IOGCC finds CROMERRR could require states to implement costly electronic reporting and recordkeeping requirements that discourage the use of electronic filing and recordkeeping; and,

BE IT FURTHER RESOLVED, that the IOGCC requests that EPA withdraw CROMERRR to provide an opportunity for review and restructuring in cooperation with the states and other stakeholders.



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02/22/02 11:45 AM

To: "docket.oeca@epa.gov" <docket.oeca@epamail.epa.gov>
cc:
Subject: Interstate Oil & Gas Compact Commission Comments on the
CROMERRR proposed Rulemaking

Please find attached a copy of the Interstate Oil and Gas Compact Commission comments on the proposed CROMERRR Rulemaking (Reference Docket No. EC-2000-007).



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